

**REMARKS**

Claims 1-4, 29-33, and 39-41 are pending in this application.

Claims 1-4, 29-33, and 39-41 have been rejected.

Claim 1 has been amended as shown above.

Reconsideration and full allowance of Claims 1-4, 29-33, and 39-41 are respectfully requested.

**I. REJECTION UNDER 35 U.S.C. § 102**

The Office Action rejects Claims 1-4, 29-33, and 39-41 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,229,810 to Gerszberg ("*Gerszberg*"). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

*Gerszberg* recites an access network server complex, which forms part of a local loop network architecture. (*Abstract; Figure 1*). The access network server complex includes a facilities management platform (FMP) and a network server platform (NSP). (*Figure 1*). The facilities management platform supports communication between customer premises equipment

and any number of different communication networks. (*Col. 6, Lines 39-52*). The network server platform acts as a cache storage for information exchanged with the different communication networks. (*Col. 6, Lines 53-55*). The local loop network architecture also includes an intelligent services director (ISD). (*Figure 1*). The intelligent services director facilitates communication between customer premises equipment (such as videophones, digital telephones, set-top devices, and computers) and the facilities management platform. (*Col. 6, Line 63 – Col. 7, Line 44*).

Regarding independent Claim 1, the Office Action asserts that the intelligent services director of Gerszberg anticipates the “at least one service proxy” recited in Claim 1. (*Office Action, Page 2, Paragraph 3*). However, *Gerszberg* fails to recite the use of “one or more terminal emulators” that each include “at least one service proxy” and that are responsible for “setting up services between said plurality of data sources and said plurality of telephones” as recited in Claim 1. In fact, *Gerszberg* lacks any mention of using a “terminal emulator” in any way. As a result, *Gerszberg* fails to anticipate all elements of Claim 1 (and dependent Claims 2-4).

Regarding the remaining Claims 29-33 and 39-41, the Office Action only provides the basis for rejecting Claim 1 in view of *Gerszberg*. The Office Action fails to specify any element(s) that are disclosed in *Gerszberg* which would anticipate the elements recited in any of Claims 29-33 and 39-41. In fact, the Applicant notes that independent Claims 29-32 and 39 recite additional elements/features that are not recited in Claim 1. As a result, Applicant respectfully submits that the rationale for rejecting Claim 1 in view of *Gerszberg* cannot be used to reject Claims 29-33 and 39-41, and therefore the Office Action has failed to establish a prima

facie 102 rejection which would allow the Applicant a fair and full opportunity to respond to the 102 rejection of these claims.

As an example, the Office Action asserts that the “access network server complex” of *Gerszberg* anticipates “a call service provider for, when connected to a plurality of data network telephones, facilitating provision of telephony services for said plurality of telephones” as recited in Claim 1. (*Office Action, Page 2, Paragraph 3*). The Office Action then rejects Claim 39 using the same rational. However, the Office Action makes no attempt to show that *Gerszberg* anticipates a “call service provider” that includes “a messenger for sending messages with audio parameters ... including transmission and reception filters” as recited in Claim 39. The burden is on the Patent Office to establish that *Gerszberg* anticipates all elements of all rejected claims. Because the Office Action does not explain how *Gerszberg* anticipates Claims 29-32 and 39, the Office Action fails to meet this burden.

In particular, the cited portions of *Gerszberg* contain no mention of receiving “user input messages” from a telephone, receiving a “further user input message” associated with a function, and sending a control message to the telephone if the “state of said telephone is not incompatible with said function” as recited in Claim 29.

The cited portions of *Gerszberg* also contain no mention of receiving one or more user input messages from a telephone “during pendency of [a] voice call” and setting up “at least one non-telephony data service between said telephone and at least one data source,” where the “at least one data service does not conflict with said voice call” as recited in Claim 30.

The cited portions of *Gerszberg* further contain no mention of retrieving a “first configuration data structure” and a “second configuration data structure,” where each structure correlates “user input elements” of a telephone with “functions” of the telephone as recited in Claim 31.

The cited portions of *Gerszberg* also contain no mention of a “control messenger” for selectively sending a “control message to enable a user input element of a given telephone ... to locally control a function” and a “control message to disable a user input element of a given telephone” as recited in Claim 32.

In addition, the cited portions of *Gerszberg* contain no mention of a “call service provider” that includes a “messenger for sending messages with audio parameters” to a plurality of telephones for “controlling audio at said plurality of telephones,” where the audio parameters include “transmission and reception filters” as recited in Claim 39.

For these reasons, the Office Action does not show that *Gerszberg* anticipates the Applicant's invention as recited in Claims 1, 29-32, and 39 (and their dependent claims). Accordingly, the Applicant respectfully requests withdrawal of the § 102(e) rejection of Claims 1-4, 29-33, and 39-41.

## II. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining claims in the application are in condition for allowance and respectfully requests an early allowance of such claims.

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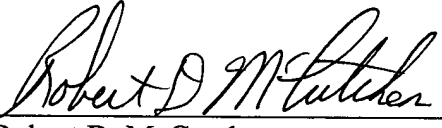
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *rmccutcheon@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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